

REMARKS

Claims 1-19 are pending in this application. Claims 1-19 have been rejected under 35 U.S.C §103. Claims 1 and 11 have been amended. The specification has been amended. No new matter has been added. Reexamination and reconsideration is respectfully requested.

Specification

Applicant has made minor amendments to the specification as shown above. The amendments add information relating to incorporated references that were not available at the time of filing. No new matter has been added.

Rejection under 35 U.S.C §103

The Examiner has rejected Claims 1-9 and 11-18 under 35 U.S.C §103(a) as being unpatentable over Barber et al., U.S. Patent No. 5, 390,297 in view of Coley et al., U.S. Patent No. 5,790,664. This rejection is respectfully traversed. However, in order to clarify embodiments of Applicant's invention and pass the claims to allowance at an earliest possible date, Applicant has amended Claims 1 and 11.

As amended, Claim 1 recites a system for managing licenses for protected software on a communication network, the system comprising, *inter alia*, at least one client computer capable of being coupled to the communication network . . . ; *at least one license server* coupled to the communication network, each license server programmed for managing a distribution of allocations to use the protected software and at least one license server programmed for granting a commuter authorization in response to a request for a commuter authorization, wherein the at least one client computer *is configured with the protected software*, the protected software being independent of the at least one license server, and wherein after a commuter authorization is communicated from a granting license server to a requesting client computer, the requesting client computer may use the protected software while coupled to or decoupled from the communication network until the commuter authorization lifetime expires, the requesting client computer utilizing the commuter authorization *independently* of the at least one license server.

Claim 11 recites similar language. These features are not disclosed or suggested in Barber et al. or Coley et al., individually or in combination.

Barber et al. is directed toward a license management system. In the Barber et al. system, user computers on a local node are configured with a computer program and a license manager. When a user at the local node makes a request to run the computer program on the local node, the respective license manager searches the license file at the local node to determine whether the user is authorized to use the computer program. (Barber et al., column 6, lines 43-49; Figures 2A-2C, 5A-5C.) In the Barber et al. system, there is no license server that manages distribution of allocations and grants commuter authorizations. Rather, licensing information is stored in license files at the local node and the license management system searches for these files when verifying authorization. Moreover, the computer program and the license management software are linked to each other at the local node. In other words, each computer program is managed by its own licensing management software, both of which are resident on the local node. The Barber et al. system is different than the embodiment of Applicant's invention as recited in amended Claims 1 and 11.

In contrast, amended Claims 1 and 11 include, among other things, at least one license server for managing distribution of allocations and granting commuter authorizations. In addition, Claims 1 and 11 include at least one client computer configured with the protected software. In amended Claims 1 and 11, the license server and its management functions are independent of the client computer and the protected software.

Also, in amended Claims 1 and 11, the client computer utilizes the commuter authorization independently of the license server once the authorization has been issued. Not only does the Barber et al. system maintain the program and the license management software on the same node but, as acknowledged by the Examiner, Barber et al. does not even disclose a commuter authorization.

Coley et al. is directed toward a system for automatically tracking software use and for determining whether the software is validly licensed. In Coley et al., regional license servers are composed of an agent component, a database component and a client component. A client

module in a desktop machine communicates with an agent component in a regional license server over a network. (Coley et al., column 11, lines 10-17.) In a portable environment, an agent component of the licensing module acts on behalf of a license server during periods that the portable is out of communication with the license server. (Coley et al., column 22, lines 5-13.)

The Coley et al. system differs from embodiments of Applicant's invention as recited in amended Claims 1 and 11 in several ways. First, in Coley et al., the client component communicates with an agent at the license server, not directly with the license server as recited in amended Claims 1 and 11. In addition, in amended Claims 1 and 11, the commuter authorization works independently of the license server once the authorization has been issued, irrespective of whether the client computer is connected to the network. In Coley et al., when the client re-connects to the network, the client establishes communication with the agent module in the license server to refresh information in its cache and to supply audit data. In addition, if the client has been disconnected to the network for an extended period of time, the client is prompted to connect to the network. (Coley et al., column 22, lines 18-27.)

In contrast, in amended Claims 1 and 11, the license server grants authorization directly to a requesting client computer. In addition, once authorization has been granted, there is no need for a client computer to communicate with the license server. The requesting client computer utilizes the commuter authorization independently of the at least one license server; after a commuter authorization is communicated from a granting license server to a requesting client computer, the requesting client computer may use the protected software while coupled to or decoupled from the communication network until the commuter authorization lifetime expires. There are no features of this type disclosed or suggested in Coley et al.

Accordingly, there are features of Applicant's invention recited in amended Claims 1 and 11 that are not disclosed or suggested in Barber et al. or Coley et al., individually or in combination. Because neither of the individual references recite all of the features of amended Claims 1 and 11, the combination of these references cannot recite all of the limitations of amended Claims 1 and 11. Thus, a *prima facie* case of obviousness cannot be made against

Claims 1 and 11 and the claims depending directly or indirectly therefrom using the Barber et al. and Coley et al. references.

The Examiner has rejected Claims 1-9 and 11-18 under 35 U.S.C §103(a) as being unpatentable over Barber et al. in view of Coley et al. and further in view of McCurdy et al., U.S. Patent No. 5,177,222. This rejection is respectfully traversed. Claims 10 and 19 depend directly from Claims 1 and 11, respectively. As stated above, in order to clarify embodiments of Applicant's invention and pass the claims to allowance at an earliest possible date, Applicant has amended Claims 1 and 11. Thus, based on their dependencies, Claims 10 and 19 cannot be obvious over the Barber et al. and Coley et al. references. In addition, McCurdy et al. does not make up for the deficiencies of the Barber et al. and Coley et al. references.

McCurdy et al. is directed toward a tamper-indicating transmitter. The McCurdy et al. device is a portable transmitter and monitoring unit used in home arrest systems. The McCurdy et al. device is attached to a confine and tailor to the size of the confinee's home or apartment and indicates an alteration of the transmission range of the device after the device has been affixed to the confinee. McCurdy et al. is not a licensing management system and does not address embodiments of Applicant's invention as recited in amended Claims 1 and 11 and Claims 10 and 11. Moreover, given that McCurdy et al. does not disclose or suggest in any way a licensing system that provides authorization to use computer software, Applicant respectfully submits that the McCurdy et al. reference is nonanalogous art and, thus, inappropriate for an obviousness rejection.


Accordingly, there are features recited in Claims 10 and 19 that are not disclosed or suggested in Barber et al., Coley et al. or McCurdy et al., individually or in combination. Because none of the individual references recite all of the features of Claims 10 and 19, the combination of these references cannot recite all of the limitations of Claims 10 and 19. Thus, a *prima facie* case of obviousness cannot be made against Claims 10 and 19 using the Barber et al., Coley et al. and McCurdy et al. references.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 50-0872. Should no proper payment be enclosed herewith, as by a check being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 50-0872. If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicant hereby petitions for such extension under 37 C.F.R. §1.136 and authorizes payment of any such extensions fees to Deposit Account No. 50-0872.

Respectfully submitted,

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